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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,044	05/07/2007	Norbert Taufenbach	HKH-38PCT	7304
40570	7590	08/19/2009		
FRIEDRICH KUEFFNER				
317 MADISON AVENUE, SUITE 910				
NEW YORK, NY 10017				
EXAMINER				
NGUYEN, PHILLIP				
ART UNIT		PAPER NUMBER		
2828				
MAIL DATE		DELIVERY MODE		
08/19/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/593,044

Applicant(s)

TAUFENBACH, NORBERT

Examiner

PHILLIP NGUYEN

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 4-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/4/2009 have been fully considered but they are not persuasive.

Applicant argues that neither Golser et al. nor Kindl et al. disclose a construction in which the resonator mirror and the electrodes are adjusted at the same time, as in the present claimed invention.

Examiner disagrees with this argument because applicant fails to incorporate the feature into the claims. The claims 1 and 2 recite "wherein always one of the electrodes and one of the mirrors form a structural unit" which does not necessarily mean what applicant argues above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Golser et al. (US 4238743).

With respect to claim 1, Golser discloses in Figs. 1-2 a gas slab laser with a gas-filled chamber bounded by a housing (1,6, 7), with at least two electrodes excited by high frequency (not labeled), which extend into the tubular housing, overlap each other another and form a

discharge chamber, and with resonator mirrors (8 and 9), wherein the resonator is adjusted by plastic deformation of the housing (1,6, 7) and/or to produce the required spatial alignment of the resonator mirrors as well as the electrodes relative to each other, wherein always one of the electrodes and one of the mirrors form a structural unit.

It's noted that the claim recites " to produce the required spatial alignment of the resonator mirrors as well as the electrodes relative to each other" but this is not considered.

Since all of the components such as electrodes and mirrors are attached to each other in the housing, they are considered as one structural unit.

With respect to claim 2, it is different with claim 1 by "by application of a constant force to produce the required spatial alignment of the resonator mirrors as well as the electrodes relative to each other" which is also not considered because the limitation is not required after "and/or" phrase. Therefore the claim is treated and rejected with the same rejection as shown in the rejection of claim 1.

Claims 1-2, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kindl et al. (US 3826998).

With respect to claim 1, Kindl discloses in Figs.1-2 a gas slab laser with a gas-filled chamber bounded by a housing (10 and 11), with at least two electrodes (inherent for a gas discharge laser) excited by high frequency (not labeled), which extend into the tubular housing, overlap each other another and form a discharge chamber, and with resonator mirrors (14 and the opposite side of the tube to form a resonator), wherein the resonator is adjusted by plastic deformation of the housing (1,6, 7) and/or to 3) by application of a constant force to produce the

required spatial alignment of the resonator mirrors as well as the electrodes relative to each other, wherein always one of the electrodes and one of the mirrors form a structural unit.

It's noted that the claim recites by application of a constant force to produce the required spatial alignment of the resonator mirrors as well as the electrodes relative to each other" but this is not considered after the phrase "and/or".

Since all of the components such as electrodes and mirrors are attached to each other in the housing, they are considered as one structural unit.

With respect to claim 2, it is different with claim 1 by "by application of a constant force to produce the required spatial alignment of the resonator mirrors as well as the electrodes relative to each other" which is also not considered because the limitation is not required after "and/or" phrase. Therefore the claim is treated and rejected with the same rejection as shown in the rejection of claim 1.

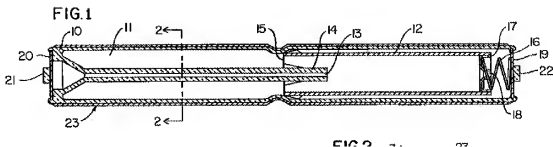
With respect to claims 11 and 13, Kindl discloses the force being applied mechanically and variable from a controller (col. 1, ln. 66 to ln. 2 of col. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Golster or Kindl disclose the claimed invention except for the plastic deformation being carried out by shot peen forming.



It would have been obvious to one skill in the art at the time the invention was made to provide the plastic deformation being carried out by shot peen forming because this method is well known in the art to perform deformation of materials (col. 6, ln. 1-12).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kindl et al. (US 3826998) in view of Sukhman et al. (US 5661746). Kindl discloses the claimed invention except for the force being applied by a clamping screw. Sukhman discloses a gas laser having a housing as shown throughout the patent and further screws 98 to deform other component to adjust the electrodes 91 and 92. It would have been obvious to one skill in the art at the time the invention was made to provide the clamping screw as taught by Sukhman to Kindl in order to tune the laser more precisely so that the electrodes and mirrors are maintained in the spatial relationship (col. 4, ln. 15-18).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Nguyen whose telephone number is 571-272-1947. The examiner can normally be reached on 9:00 AM - 6:00 PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MINSUN HARVEY, can be reached on 571-272-1835. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phillip Nguyen/

AU 2828

/Minsun Harvey/

Supervisory Patent Examiner, Art Unit 2828